

LAKE COUNTY BOARD of ADJUSTMENT
December 11, 2019
Lake County Courthouse Commissioners Office (Rm 211)
Meeting Minutes

MEMBERS PRESENT: Don Patterson, Steve Rosso, Mary Jensen, Mike McKee, Frank Mutch (phone)

STAFF PRESENT: Jacob Feistner, Rob Edington, Clint Evenson, Tiffani Murphy, Lita Fonda

Don Patterson called the meeting to order at 3:32 pm

TANNER VARIANCE & CONDITIONAL USE—FINLEY POINT (3:32 pm)

Jacob Feistner presented the staff report, highlighting and describing the attachments. (See attachments to minutes in the December 2019 meeting file for staff report.) He identified agents Troy Gunlock and Jim Atkinson upon their arrival.

Steve affirmed with Jacob that a boundary line adjustment between the two guest houses would alleviate 1 potential variance and was a possible option. He asked about the guest house expansion in the NW corner. Jim Atkinson said this was an 8-foot expansion, being 6 ½ feet for the expansion and 1 ½ feet for the eave.

Mike said this would be a 4-foot variance from the county road.

The agents had no comment.

Public comment opened: None offered. *Public comment closed.*

Steve offered changes:

- Pg. 14, item b, line 6, after ‘previous owners.’: Add a sentence: ‘The hardship related to the side setback variance is created by the zoning regulations that require the setback distance to almost double when the lots are aggregated, which are required to complete the development plans.’
- Pg. 14, item d: Add a sentence, prior to the last sentence: ‘The hardship related to the side setback variance is created by the zoning regulations that require the setback distance to almost double when the lots are aggregated, which are required to complete the development plans.’
- Pg. 15, last sentence of 1st paragraph: Add ‘be’ after ‘appear to’.

Mike noted this would reduce density by aggregating two lots.

Frank expressed concern that saying compliance with the regulations constituted a hardship. Steve thought it could be reworded. His idea was that the two buildings met the regulations as they existed in the current lot configuration. Aggregating the lots moved the setback lines

and now made the buildings violate the setbacks. That wasn't the fault of the owner. Frank agreed. He checked with Jacob whether this set a dangerous precedent. Jacob said they viewed [proposals] case by case. They weren't going to use that argument on everything and he didn't think the board would buy that on every one.

Motion made by Mike McKee to approve the variance and conditional proposals as presented and amended.

Frank referred to a place in the report that talked about possible future widening of Finley Point Road. He'd heard from the Commissioners that the county didn't own a lot of the right-of-way and could not expand the existing pavement. Further discussion ensued.

Motion seconded by Mary Jensen. Motion carried, all in favor.

SANDHOLM CONDITIONAL USE—FINLEY POINT (3:55 pm)

Clint Evenson presented the staff report. (See attachments to minutes in the December 2019 meeting file for staff report.) He spoke with Dorel Hunt, the current landowner, who was in favor of the project but was unable to get in [written] comments. Applicant Jeff Sandholm would potentially purchase the property.

Public comment opened: None offered. *Public comment closed.*

Steve offered changes:

Pg. 5, 4.ii: Change 'vegetated' to 'vegetation'.

Pg. 6, #5, 4th line of italics, before the last sentence: Add sentence: 'Allowing slope disturbance for construction of the proposed walkway will provide safer access to the lakeshore recreation area in case of an emergency.'

Pg. 7, #4, last line: Add 'that slopes away from the lake' after 'pathway'. He referred to attachment 4 and comments in the report.

Frank assumed lighting would exist due to condition #5, pg. 7. Clint clarified that no lights were proposed. This was boilerplate.

Motion made by Steve Rosso, and seconded by Mary Jensen, to approve the conditional use with findings of fact and conditions as modified. Motion carried, all in favor.

NOVINSKI CONDITIONAL USE & VARIANCE—FINLEY POINT (4:08 pm)

Tiffani Murphy presented the staff report. (See attachments to minutes in the December 2019 meeting file for staff report.) She noted Kurt Hafferman was present to represent the applicant.

Tiffani described the area where the project would be located, using attachment 4. Steve asked about the footprint for the house. Tiffani replied they didn't have construction plans at this time. [Kurt Hafferman] mentioned the footprint, which the board didn't have. Jacob showed a map with the approximate location. Tiffani explained the applicant hesitated to do detailed construction plans prior to having board approval.

Steve asked if a boundary line adjustment was considered with Timbrshor in exchange for letting them have their well on the property if they weren't going to use the bluff area. Agent Kurt Hafferman replied he represented both the Timbrshor Homeowners Association and the applicants. He was a licensed engineer in MT and a private consultant. The Timbrshor Homeowners Association had encroached upon the Novinski property, who allowed them to use that property for parking. They intended to swap this piece of property and avoid [this] process. The Timbrshor Homeowners had a bylaw that said all land transfers must be approved by 100% of the owners. That wasn't possible with the 47 owners. Kurt outlined other plans they'd tried to do. The Novinskis were trying to squeeze as far away as possible from the well. Kurt pointed to where the well had to go, which has a 100-foot well control zone. It was as tight as a tick. He detailed the situation with Timbrshor further, and problems with their water system.

Board members studied the map that Jacob provided.

Frank, pg. 3, item 4, 4th line: Change 'maximum' to 'minimum'.

Mary inquired about access and maintenance for Timbrshor Homeowners Association for the well area. Kurt said agreements would be worked out. He pointed to a road on the map that came up to a house [in Timbrshor], to where they'd be constructing an access road and where the well control building would be. They would have an access agreement.

Jacob described a court case that stated the prime purpose of a variance was to benefit the community as well as the landowner. In this case, it seemed like a huge benefit to the community. Steve and Kurt agreed that the Novinskis had been thoughtful and benevolent in this situation.

Corrections were given:

Steve, pg. 7, #4, 1st line: Add 'an' between 'on' and 'interior'.

Steve, pg. 8, next-to-last line: Replace 'resection' with 'restriction'.

Mary and Steve, pg. 9, 3rd line from the top: Add 'for' or 'to' after 'additional water'.

**Motion made by Steve Rosso, and seconded by Mike McKee, to approve the variance and the conditional use with findings of fact as corrected and conditions and terms.
Motion carried, all in favor.**

Kurt appreciated the great job of the staff. He said applicants agreed with the conditions and would make sure they were followed. Tiffani clarified that the mention of the RV was to reaffirm what the regulations were. Jacob mentioned they had a residence in the Borchers development.

FUNK CONDITIONAL USE—FINLEY POINT (4:29 pm)

Clint Evenson presented the staff report. (See attachments to minutes in the December 2019 meeting file for staff report.) Clint commented that since the staff report was distributed, the agent came back with a stormwater management plan for the hot tub. It would be drained by a hose to the gravel driveway to be absorbed into the mantle in the center of the lot.

Steve checked about the numbers on pg. 3 in #6 and the buildable area in attachment #3. The 4,600 number didn't make sense. Clint said the buildable area was taken from the last conditional use and variance. It wasn't shown on attachment 3. Staff took measurements and calculations from the previous one. Jacob calculated that 5,207 square feet was 33% of 15,778. Earl said the 4,600 square feet was 29% [of the total buildable area of 15,860 feet]. Jacob said the [number for] 33% was right.

Steve observed the hot tub was downhill from the driveway so how would it be drained? Agent Earl Hanneman said the area wasn't very steep. The water would be pumped across the deck and up to the driveway. He replied to Mary that the hot tub would sit on a new pad after it was moved, which would be smaller.

Earl brought up the two downspouts for stormwater discussed last time that had been cut through where the water was draining onto the neighbor's property. This was fixed so it was now draining into the middle of the applicant's property.

Jacob confirmed some of the numbers discussed earlier'

Earl spoke further about the hot tub at Mike's request. It had a lift on the roof so you kept the roof on the hot tub.

Steve hoped if the board approved this, that the problems would be solved. He gave some corrections:

- Pg. 6, #2, next-to-last line: Add ', along with potential water drained from the hot tub' after 'increased storm water runoff'.
- Pg. 7, #4, first italicized line: Change 'total lot' to 'total buildable area'.

Motion made by Steve Rosso, and seconded by Mary Jensen, to approve the conditional use with findings of fact as modified, and conditions and terms. Motion carried, all in favor.

The Board asked Jessica Edwards to introduce herself. She was interested in the Board of Adjustment and came to find out what the board did and what the meetings were like.

MINUTES (approx. 4:47 pm)

Mike excused himself briefly, as he'd been absent from the Aug. 8, 2018 meeting and would need to abstain.

August 8, 2018: Corrections were offered.

Steve, pg. 6, 3rd paragraph, 2nd line: Change 'couple of day' to 'couple of days'.

Frank, pg. 7, 2nd paragraph, 2nd line: Change 'A light had' to 'All lights have'.

Motion made by Steve Rosso, and seconded by Mary Jensen, to approve the Aug. 8, 2018 meeting minutes as amended. Motion carried, 4 in favor (Don Patterson, Steve Rosso, Mary Jensen, Frank Mutch), and 1 abstention (Mike McKee).

September 11, 2019: Corrections were offered.

Steve, pg. 2, last paragraph, 1st line: Change [inaudible] to [application].

Motion made by Steve Rosso, and seconded by Mary Jensen, to approve the Sept. 11, 2019 meeting minutes as amended. Motion carried, 3 in favor (Don Patterson, Steve Rosso, Mary Jensen), and 2 abstentions (Mike McKee, Frank Mutch).

Mike returned.

October 9, 2019: Corrections were offered.

Steve, pg. 2, 1st paragraph after 'public comment', 3rd line from the bottom: Change 'west' to 'east'.

Motion made by Steve Rosso, and seconded by Mary Jensen, to approve the Oct. 9, 2019 meeting minutes as amended. Motion carried, 4 in favor (Don Patterson, Steve Rosso, Mary Jensen, Mike McKee), and 1 abstention (Frank Mutch).

OTHER BUSINESS (4:53 pm)

None.

Don Patterson, chair, adjourned the meeting at 4:53 pm.